

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHARMAINE HIBBERT,

Plaintiff,

-against-

MONTEFIORE MEDICAL CENTER,

Defendant.

23-CV-9589 (JHR)

ORDER OF SERVICE

JENNIFER H. REARDEN, United States District Judge:

Plaintiff, who is proceeding *pro se*, brings this action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 1981, and the New York City and State Human Rights Laws, alleging that her employer discriminated against her based on her race and sex. By order dated January 3, 2024, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.

DISCUSSION

A. Service on Defendant

Because Plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and the complaint until after the Court reviewed the complaint and ordered that the summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued.

To allow Plaintiff to effect service on Defendant Montefiore Medical Center through the U.S. Marshals Service, the Clerk of Court is instructed to complete a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendant. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon Defendant.

If the complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that the plaintiff bears responsibility to request such an extension).

Plaintiff must notify the Court in writing if her address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Plaintiff’s application for counsel

On January 16, 2024, Plaintiff filed an application for *pro bono* counsel. ECF No. 7. The factors to be considered in ruling on an indigent litigant’s request for counsel include the merits of the case, Plaintiff’s efforts to obtain a lawyer, and Plaintiff’s ability to gather the facts and present the case if unassisted by counsel. *See Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989); *Hodge v. Police Officers*, 802 F.2d 58, 60-62 (2d Cir. 1986). Of these, “[t]he factor which command[s] the most attention” is the merits. *Cooper*, 877 F.2d at 172. By separate Order today, the Court is referring this case to the Court’s Mediation Program and directing the Clerk of Court to attempt to locate *pro bono* counsel to represent Plaintiff at the mediation. Plaintiff’s motion for *pro bono* counsel is otherwise denied without prejudice to renewal at a later.

CONCLUSION

The Clerk of Court is directed to issue a summons for Montefiore Medical Center, complete the USM-285 forms with the address for Defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

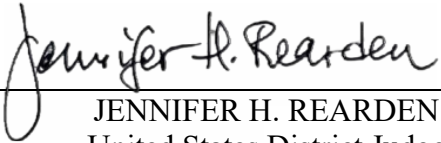
Plaintiff may receive court documents by email by completing the attached form, [Consent to Electronic Service](#). If Plaintiff consents to receive documents by email, Plaintiff will no longer receive court documents by regular mail.

By separate Order today, the Court is directing the Clerk of Court to attempt to locate *pro bono* counsel to represent Plaintiff in connection with mediation. The Clerk of Court is directed to terminate ECF No. 7.

The Clerk of Court is further directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: January 23, 2024
New York, New York



JENNIFER H. REARDEN
United States District Judge

DEFENDANT AND SERVICE ADDRESS

Montefiore Medical Center
853 Longwood Avenue
Bronx, NY 10469